

REMARKS

The Advisory Action of July 26, 2007 has been received and carefully considered. However, Applicants respectfully disagrees with the Examiner's rejections. In this Amendment, Applicants have added new Claim 3 to further specify the embodiments of the present invention. It is respectfully submitted that no new matter has been introduced by the amendment. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the preceding amendments and the following comments.

REJECTIONS UNDER 35 U.S.C. § 102 /103:

Claim 1 has been rejected under 35 U.S.C. §102(e) as allegedly anticipated by or, in the alternative, under 35 U.S.C. §103 as allegedly being obvious over Bernacki (US 2004/0038109).

Applicants traverse the rejection and respectfully submit that the embodiments of present-claimed invention are not anticipated by nor obvious over Bernacki. As previously pointed out Bernacki does not disclose or suggest that "a gasket arranged in a gasket groove, which is provided in one or both of said separator plates, and glued to each of both said separator plates" and other features as defined in Claim 1. In addition, Bernacki discloses in paragraph [0018] that "for the purpose of retaining the gasket in place, the gasket may be bonded to the plate instead by, for example, adhesive as known in the art" (emphasis added). However, the Examiner has incorrectly interpreted such description as "plates" (plural) to mean both separators.

In the Advisory Action, the Examiner has mainly relied on the sentence "the gasket maybe bonded to plate instead by, for example, adhesives as known in the art" in Bernacki to support the rejections. The Examiner then asserts that "[I]t is known in the art to bond both separator plates to the gasket with adhesive" without providing further evidence. Such knowledge of prior art is not the subject matter that can be taken official

notice by the Examiner without further evidence or support. Applicants respectfully request the Examiner to provide evidence and support for the assertion.

It is respectfully submitted that Bernacki has not disclose nor suggest that the gasket is bonded to both separators as required by the pending Claim 1, for example, “a gasket arranged in a gasket groove, which is provided in one or both of said separator plates, and glued to each of both said separator plates.”

According to MPEP 2143.01, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). According to Bernacki, the gasket may be bonded to the plate by adhesive (see paragraph [0018] of Bernacki). However, there is no disclosure or suggestion that the gasket is formed by dispenser method or screen printing method.

A product-by-process claim that defines different structures as result of the process of making the product should be considered for all of its limitations. Furthermore, bonding of the gasket in Bernacki means binding to only one of the separators. Figs. 2 and 3 do not suggest that the top ends of lips of the gasket are also bonded to an upper separator. Therefore, in Bernacki's structure, leakage due to failure of sealing may be caused at the side where the gasket is not bonded, when the gasket is deteriorated. It is respectfully submitted that the point of “no leakage” described in paragraph [0017] of Bernacki only describes the function of the gasket at the initial stage and it does not suggest that such function is maintained even after the gasket deteriorates to lose its elasticity.

In addition, a method claim has been added to further define the present invention.

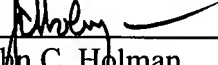
Therefore, the pending claims are not anticipated by nor obvious over Bernacki, and the rejection under 35 U.S.C. §§ 102, 103 has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. §§ 102, 103 is respectfully requested.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

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